United India Insurance Company Limited
Vs.

Shanta Devi & others

S.B. CIVIL MISC. APPEAL NO.201/1994

DATED :: 18.09.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Sanjeev Johari for the appellant
Mr.Ratan Singh for the respondents

This is insurer's appeal questioning the award dated 03.12.1993 made by the Motor Accidents Claims Tribunal, Jodhpur in Claim Case No. 187/1990 awarding compensation in the sum of Rs.9,25,000/- to the parents and sister of vehicular accident victim Dr.Niraj Kumar, 27 years in age having already passed his M.B.B.S. and getting Rs.2,843/- per month stipend while pursuing his studies of M.S.

After hearing the parties on 11th and 12th inst., the matter was posted for dictation of judgment on 13th and at the request of the learned counsel for the parties was taken up on 14th instant. During the course of submissions, learned counsel appearing for the claimants though contended against the competence of this appeal by the insurer questioning the quantum of compensation, yet in all fairness submitted that

the quantum of compensation awarded by the Tribunal particularly with application of multiplier of 22 on the estimated average loss of contribution from the deceased at Rs.3,800/- per month appeared to be bit on higher side and proposed that the award may be restated around the sum of Rs.6,20,000/-. Learned counsel appearing for the appellant-Insurance Company prayed for some time to respond to the offer made by the counsel for the claimants. This Court although expressed dissatisfaction about the appellant-Insurance Company having not responded to the offer immediately, yet in the interest of justice granted two days' time on 14.09.2006 and dictation of judgment was postponed.

On the matter being taken up for dictation of judgment today, learned counsel appearing for both the parties submit that the parties have arrived at a consensus that the award of compensation may be restated and the claimants may be allowed compensation in the sum of Rs.6,20,000/- in place of Rs.9,25,000/- as awarded by the Tribunal and on the modified award amount, the claimants may be allowed interest at the rate of 10% per annum from the date of filing of claim application in place of the rate of interest at 12% per annum as allowed by the Tribunal.

Having examined record of the case and the considerations adopted by the learned Judge, this Court is

satisfied that the propositions so made by the parties are apt, fair and proper; and the figure ad idem arrived at by them adequately represents just compensation permissible in this case.

The deceased was 27 years in age and the lone son of the claimants Nos. 1 & 2; he had already passed his M.B.B.S. and was pursuing further studies of M.S.; and was already getting stipend of Rs.2,843/-. The submission as made before the Tribunal that the deceased would have earned an average income of Rs.7,500/- per month minimum in his life time and would have contributed substantially to the claimants does not seem exaggerated. Viewed in that light but taking into account the fact that deceased was an unmarried person, this Court is of opinion that so far loss of contribution for the claimants is concerned, the same could be taken only around 50% of the estimated income of the deceased. In this view of the matter, so far present claimants are concerned, the multiplicand could be assessed on the basis of average loss of contribution at about Rs.3,800/- per month as estimated by the Tribunal, though on different criterion. Thus, a multiplicand of Rs.45,600/- per annum could reasonably be adopted for the purpose of calculation of just compensation in this case. In the overall facts and circumstances of the case, though the claimants have been shown in age of 53 years (mother), 56

years (father) and 20 years (sister) but for the fact that deceased was the lone son of his parents and had already acquired substantial technical quantification that was likely to result in better and long sustaining yields of income, it seems appropriate that a higher side multiplier of 13 be applied. On application of multiplier of 13 to the multiplicand of Rs.45,600/-, the pecuniary loss stands at Rs.5,92,800/-. Providing for a figure of Rs.25,000/- towards loss of company and services of deceased and another Rs.2,200/- towards funeral expenses, the reasonable compensation stands at Rs.6,20,000/- as agreed by the parties.

So far the rate of interest is concerned, of course the Tribunal has awarded interest at the rate of 12% per annum in the award made on 03.12.1993 the fact remains that in this appeal, by way of interim order dated 22.03.1994 this Court stayed execution of the award beyond Rs.5,00,000/- and the record of the Tribunal shows that the insurer had deposited requisite amount by its cheques dated 21.04.1994 with the Tribunal; and the said amount was paid to the claimants. In the overall circumstances of the case, it appears just and proper that the claimants be allowed interest on the award amount at the rate of 10% per annum in place of interest at the rate of 12% per annum as allowed by the Tribunal. By such modification, the ultimate amount to be received by the

claimants would reasonably be the amount of just compensation.

In the aforesaid view of the matter, though the appeal filed by the insurer-appellant is dismissed, however the award is restated and modified with the consent of the parties; the claimants are allowed compensation in the sum of Rs.6,20,000/- with interest at the rate of 10% per annum from the date of filing of claim application i.e. 03.09.1990. The remaining amount due to be paid under the modified award shall be deposited by the insurer with the Tribunal within 30 days from today and the same be disbursed in the manner and proportion as contemplated by the impugned award.

(DINESH MAHESHWARI),J.

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